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page]

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

EPIC GAMES, INC.,

Plaintiff, Counter-defendant,

vs.

APPLE INC.,

Defendant, Counterclaimant.

No. 4:20-CV-05640-YGR-TSH

**SUPPLEMENTAL STIPULATION
AND PROPOSED ORDER RE TRIAL
STIPULATIONS**

Trial Date: May 3, 2021
Time: 8:00 a.m.
Courtroom: 1, 4th Floor
Judge: Hon. Yvonne Gonzalez Rogers

Pursuant to the Court's Standing Order Re: Pretrial Instructions in Civil Cases and Pretrial Order No. 2 (ECF No. 381), Plaintiff and Counter-defendant Epic Games, Inc. ("Epic"), and Defendant and Counterclaimant Apple Inc. ("Apple"), together, the "Parties", by and through their undersigned counsel, hereby agree and stipulate that the following notice procedures will apply unless the Court for good cause shown directs otherwise:

1. Exhibits and demonstratives to be used in connection with a Party's examination of a witness within its control, or of a third-party witness called by the Party, and demonstratives to be used during arguments, will be exchanged via email by 1:30 p.m. PT of the calendar day before use. The other Party will by 7:00 p.m. PT that day (a) indicate which objections, if any, it intends to maintain as to the identified exhibits, and (b) articulate any objections, questions or other issues regarding the identified demonstratives. The Parties will meet and confer by 8:30 p.m. PT of the same day to discuss and resolve any remaining objections. Individuals with authority to resolve disputes will join the meet and confer discussions. The Parties will present any unresolved objections to the Court for resolution on the day of use, either at the beginning of the day or when the relevant exhibit or demonstrative is offered or used.¹

2. The Court's Pretrial Order No. 1 ¶ 8 (ECF No. 371) provides in part that "The party presenting evidence shall give the other party 24 hours *written* notice of the witnesses to be called unless otherwise agreed upon by the parties themselves. For witnesses on a Monday, written notice shall be provided by the prior Saturday at noon." The Parties agree to modify this language as follows: "The party presenting evidence in its case-in-chief shall give the other party written notice by 7:30 a.m. PT of the witnesses to be called on the trial day that begins 48 hours later, as well as the order in which such witnesses will testify on that day. Epic shall give Apple written notice by 7:30 a.m. PT of any rebuttal witnesses to be called on the trial day that begins 24 hours later, as well as the order in which such witnesses will testify on that day."

¹ For the avoidance of doubt, this ¶ 1 supersedes the Parties' prior agreement that the "Parties will exchange demonstratives at least 24 hours before use (including use during arguments and witness testimony)". (ECF No. 377, No. 1.)

1 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

2
3 Dated: April 30, 2021

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14
15 Dated: April 30, 2021

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1 **PURSUANT TO STIPULATION AND GOOD CAUSE APPEARING, IT IS SO**
2 **ORDERED.**

3
4 DATED: _____

5 HON. YVONNE GONZALEZ ROGERS
6 United States District Judge
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ECF SIGNATURE ATTESTATION

In accordance with Civil Local Rule 5-1, the filer of this document hereby attests that the concurrence of the filing of this document has been obtained from the other signatory hereto.

Dated: April 30, 2021

CRAVATH, SWAINE & MOORE LLP

By: /s/ Katherine B. Forrest

Katherine B. Forrest

*Attorneys for Plaintiff and
Counter-defendant Epic Games, Inc.*